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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

PLUMBERS UNION LOCAL NO. 12
PENSION FUND, Individually and on
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

AMBASSADORS GROUP INC.,
JEFFREY D. THOMAS, CHADWICK J.
BYRD and MARGARET M. THOMAS,

Defendants.

CASE NO.: CV-09-214-JLQ

**DEFENDANT AMBASSADORS
GROUP, INC., JEFFREY D.
THOMAS, CHADWICK J.
BYRD, AND MARGARET M.
THOMAS'S RESPONSE TO
LEAD PLAINTIFF MOTION**

RESPONSE TO LEAD PLAINTIFF MOTION

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1 Defendants Ambassadors Group, Inc., Jeffrey D. Thomas, Chadwick J.
 2 Byrd, and Margaret M. Thomas respectfully submit this response to the motion for
 3 appointment of lead plaintiff and lead counsel, as filed on September 14, 2009.

4 The above-listed defendants (the “Defendants”) take no position at this time
 5 regarding (i) the appointment of lead plaintiff or (ii) the proposed lead plaintiff’s
 6 selection of lead counsel. However, if and when the Court considers a motion for
 7 class certification, the Defendants reserve their right to challenge the adequacy of
 8 the lead plaintiff and lead counsel, the typicality of the claims asserted in the
 9 amended complaint, and any other matters relevant to the requirements of Rule 23.
 10 As the Ninth Circuit has stated: “It is not inconceivable that a lead plaintiff
 11 appointed originally might turn out to be an inadequate class representative and
 12 that a change might have to be made.” *Z-Seven Fund, Inc. v. Motorcar Parts &*
 13 *Accessories*, 231 F.3d 1215, 1218-19 (9th Cir. 2000); *see also* Joint Explanatory
 14 Statement of Committee of Conference, H.R. Conf. Rep. No. 104-369, at 34
 15 (1995), *reprinted in* 1995 U.S.C.C.A.N. 730, 733 (“[t]he provisions of the bill
 16 relating to the appointment of a lead plaintiff are not intended to affect current law
 17 [under FRCP Rule 23] with regard to challenges to the adequacy of the class
 18 representative or typicality of the claims among the class”).

19 Dated: September 28, 2009

WILSON SONSINI GOODRICH & ROSATI,
 P.C.

21 s/ Barry M. Kaplan
 Barry M. Kaplan, WSBA #8661
 Douglas W. Greene, WSBA #22844

23 Attorneys for Defendants Ambassadors
 Group, Inc., Jeffrey D. Thomas and
 Margaret M. Thomas

1 Dated: September 28, 2009

DLA PIPER LLP (US)

2 s/ Stellman Keehnel

3 Stellman Keehnel, WSBA #9309

4 Attorneys for Defendant
5 Chadwick J. Byrd

CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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and I hereby certify that I have caused the document to be mailed by United States Postal Service to the following non CM/ECF participants:

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Dated: September 28, 2009

s/ Barry M. Kaplan
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